IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. 48350-M of 2006

DATE OF DECISION : 09.10.2006

Pardeep Kumar

.... PETITIONER

Versus

State of Haryana

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. Ashit Malik, Advocate,
for the petitioner.

Mr. Partap Singh, Senior D.A.G., Haryana.

* * *

Petitioner Pardeep Kumar, husband of deceased Sarla Rani, who is in custody since 25.2.2006, has filed this petition under Section 439 of the Code of Criminal Procedure for the grant of regular bail in case FIR No. 21 dated 17.1.2006 under Sections 406, 498-A, 304-B, 34 IPC, registered at Police Station City Thanesar, District Kurukshetra.

2. I have heard counsel for the parties and gone through the contents of the FIR as well as the order dated 11.8.2006, passed by Sessions Judge, Kurukshetra, whereby bail application filed by the petitioner has been dismissed.

3. In this case, initially the aforesaid FIR was registered under Sections 406, 498A, 506 and 34 IPC, on the basis of complaint made by deceased Sarla Rani. Subsequently, she started residing with her father at Kurukshetra. Thereafter, on 9.2.2006, she died and then on the statement of her father, the offence under Section 304-B IPC was added in the aforesaid FIR and the petitioner was arrested.

4. Undisputedly, at the time of the alleged death, deceased Sarla Rani was residing with her father Hawa Singh (complainant) at his house.

The offence under Section 304-B IPC was added on the statement of said Hawa Singh, in which he alleged that the deceased was got admitted by him on 5.2.2006 in L.N.J.P. Hospital, Kurukshetra. When her condition was not improved, she was referred to PGI, Chandigarh on 9.2.2006 and a referral slip was prepared by the doctors. On that day, when he was taking his daughter Sarla Rani to PGI, Chandigarh, she gained consciousness and told him that on 5.2.2006, when the complainant and his wife were away from the house, then the petitioner and the his co-accused came to the house, gave beating and pressed her to take the case back, otherwise they would kill her and her father. Thereafter, she became unconscious and subsequently died on the way to PGI.

5. Counsel for the petitioners submits that in the instant case, the deceased did not die an un-natural death. As per the prosecution version, the instant case was not a case of suicide by consuming poison by the deceased, as per report dated 2.8.2006 of the Forensic Science Laboratory, no poison was detected. Counsel contends that till today, no opinion regarding the cause of death has been obtained by the investigating agency. Counsel further contends that there is no evidence on the police file showing that the deceased died an un-natural death. Counsel for the petitioner submits that the deceased was suffering from Organic Psychosis which ultimately resulted in her death. When her condition did not improve in L.N.J.P. Hospital, she was referred to PGI, Chandigarh on 9.2.2006 and a referral slip was prepared by the doctors wherein her diagnosis was written as Organic Psychosis. The Organic Psychosis is a disease which results from a pathological condition of central nerves system, but Sarla Rani died on way to the PGI, Chandigarh because of her ailment.

6. Counsel for the petitioner further contends that the deceased in this case had died a natural death and the petitioner has been falsely implicated merely on the statement of father of the deceased to the effect that when he was taking his daughter to PGI, Chandigarh, she became conscious and told him that the accused had given beatings to her on 5.2.2006. Counsel contends that this version is highly improbable and

cannot be believed. He further submits that for these reasons, father-in-law and two sisters-in-law of the deceased have already been granted bail by this Court on May 30, 2006.

7. In view of the aforesaid facts, without expressing any opinion on the merits of the case and keeping in view the fact that the petitioner is in custody since 25.2.2006, I deem it just and appropriate to grant bail to the petitioner and he is accordingly ordered to be released on bail to the satisfaction of the trial court.

October 09, 2006 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**